IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10364 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KAMLESH GURUMUKHDAS CHAVLA SINDHI

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner

MR HH PATEL, APP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 11/01/2001

ORAL JUDGEMENT

#. Manifold contentions have been raised by learned counsel for the petitioner to challenge the order passed by the respondents u/s.3 of the Gujarat Prevention of Anti-Social Activities Act, 1985, but as this petition deserves to succeed only on one ground, no need to refer

to all those contentions.

#. It is contended that the petitioner demanded a copy of the statements recorded of the witnesses u/s.161 of the Cr.P.C. in connection with Prohibition Station, North Zone, C.R. No.1307/2000, Prohibition Station, Gandhinagar C.R. No.617/2000, Prohibition Station, North Zone, C.R. No.1317/2000 and Prohibition Station, North Zone, C.R. No.1535/2000 but those documents were not given to the petitioner by the respondents and as such he has been deprived of his right to make effective representation as contemplated under Article 22(5) of the Constitution of India.

#. Reply to the special civil application has been filed by Commissioner of Police, Ahmedabad City. The contention as aforesaid is very specifically raised by the petitioner in paragraph 4(n) of the petition and reply thereto was given as under:

> "7. With reference to paras 4(c), (d), (m), (n) and (q) of the petition, I say that these paras pertain to the State Government and therefore I crave leave of the Hon'ble Court to refer to and rely upon the reply that may be filed by the State Government in regard to the above paras, at the time of hearing of the petition."

What the detaining authority stated that the averments made in paragraphs 4(n) pertains to State Government and he craves leave of this court to refer to and rely upon the reply that may be filed by the State Government in respect thereto. The State Government has not filed any reply, meaning thereby, it is not disputed that the copies of the statements recorded u/s.161 of the Cr.P.C. of the witnesses in the aforesaid criminal complaints were not supplied to the petitioner.

#. This matter is squarely covered by the decision of this Court in the case of Sona @ Sonu Kengdo Laxmandas Sindhi v. State of Gujarat & ors. in Special Civil Application No.8906/2000 (Coram: A.L.Dave, J.).

#. In the result, this special civil application succeeds and the same is allowed and the detention order dated 26th August, 2000 (Annexure-A) is quashed and set aside. The detenue shall be set free forthwith if he is not required in any other case. Rule is made absolute accordingly. No order as to costs.

(S.K.Keshote, J.)

(sunil)